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7 Attorneys for Defendant
8 Umpqua Bank

9 IN THE UNITED STATES BANKRUPTCY COURT
10 FOR THE DISTRICT OF OREGON

11 In re)	
)	
12 Summit Accommodators, Inc., dba)	Bankruptcy Case No. 08-37031-RLD11
13 Summit 1031 Exchange,)	
)	
14 Debtor.)	
)	
15 KEVIN D. PADRICK, TRUSTEE OF THE)	Adv. Pro. No. 09-03233
16 SUMMIT ACCOMMODATORS)	
LIQUIDATING TRUST,)	
)	NOTICE OF REMOVAL
17 Plaintiff,)	
)	
18 v.)	State Court Case No. 0906-08488
)	
19 UMPQUA BANK,)	
)	
20 Defendant.)	

21 **TO: THE CLERK OF THE COURT,**
22 **THE UNITED STATES BANKRUPTCY COURT, DISTRICT OF OREGON:**

23 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1334(b), 1446, and 1452
24 of the Judicial Code, Federal Rules of Bankruptcy Procedure 9027, 7001, Local District
25 Court Rules 2100.3 and 2100.7, and Local Bankruptcy Court Rules 9027-1 and 7001-1,
26 Defendant Umpqua Bank ("Umpqua"), hereby removes to United States Bankruptcy

1 Court for the District of Oregon the case now pending in Multnomah County Circuit
2 Court as Padrick v. Umpqua Bank, Case No. 0906-08488.

3 As grounds for removal, Defendant states as follows:

4 1. On June 19, 2009, Kevin D. Padrick, Trustee of the Summit Accommodators
5 Liquidating Trust ("Plaintiff") filed a Complaint in this action now pending in Multnomah
6 County Circuit Court as Padrick v. Umpqua Bank, Case No. 0906-08488. Pursuant to
7 28 U.S.C. § 1446(a), all state court papers served on Umpqua or otherwise filed therein
8 at the time of removal, including the Complaint and Summons, are attached as
9 Exhibit 1.

10 2. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b), which
11 provides that a notice of removal must be filed within 30 days after a defendant
12 receives, by service or otherwise, the initial pleading.

13 3. Plaintiff alleges that Summit engaged in a ponzi scheme in which Summit's
14 principals embezzled money that it obtained from clients who entrusted Summit to hold
15 their money in order to facilitate "1031 exchanges" under Section 1031 of the Internal
16 Revenue Code. See Ex. 1 (Compl.) ¶¶ 4-6. Plaintiff further alleges that Umpqua
17 officials were made aware of "all relevant aspects" of Summit's ponzi scheme and that
18 Umpqua officials encouraged and aided Summit's principals in carrying out the alleged
19 scheme, ultimately leading to Summit filing for bankruptcy protection and resulting in
20 losses to Summit's 1031 exchange clients. Id. ¶¶ 10-16.

21 4. Plaintiff purports to assert a cause of action for Civil Conspiracy/Aiding and
22 Abetting based on these allegations, seeking recovery on behalf of the Summit
23 Accommodators Liquidating Trust. Id. ¶¶ 17-25.

24 5. This Court has original jurisdiction over this action pursuant to Section
25 1334(b) of the Judicial Code, as this action is "related" to the pending Chapter 11

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1 proceeding filed by Summit Accommodators, Inc. ("Summit"). Upon this removal, the
2 proceeding is core.

3 **BANKRUPTCY "RELATED TO" JURISDICTION**

4 6. On December 19, 2008, Summit Accommodators, Inc. (Summit) filed a
5 petition for voluntary bankruptcy protection under Chapter 11 of the United States
6 Bankruptcy Code in the United States Bankruptcy Court for the District of Oregon, Case
7 No. 08-37031-RLD11. The assets of the company were transferred into a liquidating
8 trust, of which the Plaintiff is the liquidating trustee. See Ex. 1, ¶¶ 1-2.

9 7. This Court has original jurisdiction over this action pursuant to Section
10 1334(b) of the Judicial Code because this action is "related to" the Summit bankruptcy
11 proceedings. See Celotex Corp. v. Edwards, 514 U.S. 300, 308 n. 5 (1995)
12 ("Proceedings 'related to' the bankruptcy include (1) causes of action owned by the
13 debtor which become property of the estate pursuant to 11 U.S.C. § 541, and (2) suits
14 between third parties which have an effect on the bankruptcy estate."); In Re Feitz, 852
15 F.2d 455, 457 (9th Cir. 1988) (quoting Pacor, Inc. v. Higgins, 743 F.2d 984, 994 (3d Cir.
16 1984).

17 8. Here, Plaintiff asserts claims that allegedly are property of Summit's
18 bankruptcy estate, and seeks to recover on behalf of Summit's bankruptcy estate, the
19 assets of which have been converted into a liquidating trust to benefit Summit's
20 creditors. Accordingly, any recovery in this action will effect the amount of assets
21 available to creditors of the estate and the action is "related to" Summit's Chapter 11
22 proceeding. Likewise, any recovery of other assets of the liquidating trust will affect the
23 recovery that the Plaintiff could, in any event, obtain against Umpqua. Moreover, the
24 adversary proceeding against the principals who Umpqua allegedly aided and abetted
25 has be labeled "core" by Plaintiff in the Chapter 11 proceeding.

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1 **REMOVAL TO THIS COURT IS PROPER**

2 9. Pursuant to 28 U.S.C. §§ 1334, 1446, and 1452, removal of the above-
3 captioned state court action to this Court is appropriate.

4 10. Pursuant to 28 U.S.C. § 1452(a), removal to this Court is proper because
5 the state action is currently pending in this district.

6 **OTHER PROCEDURAL REQUIREMENTS**

7 11. Umpqua does not waive, and expressly preserves, all objections including
8 (without limitation) those under Federal Rule of Civil Procedure 12.

9 12. Umpqua will promptly serve a copy of the Notice of Removal on Plaintiff's
10 counsel and file with the Clerk of the Circuit Court of Multnomah County, Oregon a
11 Notice of Filing of Notice of Removal. See 28 U.S.C. § 1446(d).

12 13. This Notice of Removal is signed pursuant to Federal Rule of Civil
13 Procedure 11 and Federal Rule of Bankruptcy Procedure 9011.

14 DATED this 21st day of July, 2009.

15 STEWART SOKOL & GRAY LLC

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17
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David S. Aman
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Fax: (503) 972-3753
Of Attorneys for Plaintiff

_____ by **mailing** a full, true and correct copy thereof in a sealed, first-class postage-paid envelope, and addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.

_____ by sending a full, true and correct copy thereof via **overnight courier** in a sealed, prepaid envelope, addressed to the attorney as shown above, the last-known office address of the attorney, on the date set forth below.

Dated this 21st day of July, 2009.

/s/ Thomas A. Larkin
Thomas A. Larkin, OSB #923623
Of Attorneys for Defendant

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